

**In the Matter of Lemle & Wolff, Inc.** Case AO-305

September 16, 1993

## ADVISORY OPINION

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board Rules and Regulations, on August 5, 1993, Lemle & Wolff, Inc. (Lemle) filed a petition for an Advisory Opinion as to whether the Board would assert jurisdiction over its operations. In pertinent part, the petition alleges as follows:

1. There is currently pending before the New York State Employment Relations Board (NYSERB) a petition filed by Service Employees International Union, Local 32E, AFL-CIO (the Union) Case SE-58529, seeking certification as representative of the single building employee employed by Lemle at a 20-unit residential apartment building located at 1316 Morris Avenue, Bronx, New York.

2. Lemle, a corporation engaged in real estate management, is engaged in management of that building.

3. During the past calendar year, Lemle had gross revenues in excess of \$500,000 annually from its sales and performance of services. In addition, during that same period, Lemle purchased more than \$50,000 worth of materials or services directly from outside the State of New York and its gross revenue from sales or performance of services directly to customers outside the State also exceeded \$50,000.

4. The above commerce information has been neither admitted nor denied by the Union in the NYSERB proceeding and the data have not been considered by the NYSERB.

5. There are no representation or unfair labor practice proceedings concerning Lemle pending before the Board.

Having duly considered the matter, we find that the Board would assert jurisdiction over Lemle. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential premises such as apartments, condominiums, and cooperatives.<sup>1</sup> As the Employer alleges that its total annual income exceeds \$500,000, assuming this income is from the management of building properties, it is clear that the Employer would satisfy the Board's discretionary standard.<sup>2</sup> Moreover, the Employer further alleges that its annual out-of-state purchases of materials or services exceeds \$50,000 and that its gross revenues from the sale or performance of services to customers located outside the State also exceeds \$50,000. Accordingly, the Employer clearly satisfies the Board's nonretail standard for asserting jurisdiction.<sup>3</sup> Based on the above allegations, the parties are advised that the Board would assert jurisdiction over the Employer.<sup>4</sup>

<sup>1</sup> See, e.g., *Carroll Associates*, 300 NLRB 698 (1990); *Coastal Property Services*, 299 NLRB 106 (1990); *Imperial House Condominiums*, 279 NLRB 1225 (1986) (reaffirming the establishment of a \$500,000 jurisdictional amounts for residential condominiums and cooperatives), *affd.* 831 F.2d 999 (11th Cir. 1987).

<sup>2</sup> The Board has traditionally aggregated the gross revenues derived from all residential buildings managed by an employer in determining whether the employer satisfies the Board's discretionary standard. See, e.g., *Mandel Management Co.*, 229 NLRB 1121 (1977). In so finding, we have assumed that the Employer is a single employer with respect to the operations included in its commerce data.

<sup>3</sup> The allegations in the petition and the attachments do not expressly state that all of the \$500,000 gross revenue is related to management of the buildings. However, we have nonetheless determined that it would effectuate the policies of the Act to assert jurisdiction. See *135-45 West Kingsbridge Avenue Assoc.*, 300 NLRB 946 (1990).

<sup>4</sup> The Board's Advisory Opinion proceedings under Sec. 102.98(a) are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view whether the Board would certify the Union as a representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.4(e) of the Board's Rules and Regulations.